

Appl. No. 10/772,994

Reply to Office action of June 29, 2005

REMARKS

Claims 1-20 were presented for examination and claims 1-20 are rejected. Claims 1, 3, 6, 8, 9, 12-15, and 19 have been amended and claim 7 has been canceled. After entry of these amendments, claims 1-6 and 8-20 remain in the application. Reconsideration is respectfully requested in view of the foregoing amendments and following remarks. These amendments and following remarks are believed to be fully responsive to the Office action dated June 29, 2005, and also render all currently pending claims at issue patentably distinct over the references of record.

## SECTION I - CLAIM REJECTION UNDER 35 U.S.C. § 103

Examiner rejects claims 1-2, 4, 6-7, 9-12, 15-16, and 18-20 under 35 U.S.C § 103(a) as being unpatentable over Nan-Mu et al. (5,164,701). Examiner states that with respect to the Nan-Mu reference, 1) the brake-lights and head lamps are met by brake lamps (51-55) and head lamps (41-42), 2) the control unit are met by the switches and electrical system in conjunction with a manual control circuit, and 3) a vehicle speed sensor is met by the sensor mechanism including a speed pulse generator means (5). Examiner goes on to state that Nan-Mu does not disclose the vehicle speed sensor connected to the control unit but states it would have been obvious that the speed pulse generator would have been connected to the manual control unit since this would have been necessary in order for the circuit to determine whether the car would have been moving or stationary in order to turn the headlights on or off. Examiner further states that it would have been obvious that the brake-lights would have been illuminated when the headlight is on and the vehicle is not moving since Nan-Mu discloses that the manual control circuit operates the headlights via switch SW 105 whether the car is moving or stationary when not in automatic mode and therefore it would have been obvious to turn the brake-lights on when the vehicle is stationary and headlights are on whenever the break-pedal is activated.

Applicants' independent claim 1 has been amended to recite that the vehicle includes "a brake for slowing the vehicle" and that the control unit illuminates the brake-light when the headlight is on, the vehicle is not moving, "and the brake is not activated." As stated by

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Examiner, the brake light in the Nan-Mu apparatus will light only when the brake-pedal is activated. Therefore, it is respectfully submitted that Applicants' amended independent claim 1 is not obvious in view of the cited reference. Similar amendments have been made to independent claim 15 and therefore it is likewise respectfully submitted that claim 15 distinguishes over the cited reference.

Dependent claims 2-5 are believe to properly depend, either directly or indirectly, from Applicants' amended independent claim 1 and are believed allowable therewith.

Dependent claim 3 has been amended to depend from Applicants' amended independent claim 1.

Similarly, claims 16-18 are believed to properly depend, either directly or indirectly, from Applicants' amended independent claim 15 and are believed allowable therewith.

Applicants' independent claim 6 has been amended to recite that the vehicle includes "a brake for slowing the vehicle" and a control unit coupled to the brake-light, the PRNDL selector, and the vehicle speed sensor, for illuminating the brake-light when the vehicle is not in PARK, the vehicle is not moving, "and the brake is not activated." Again, Nan-Mu requires activation of the brake-pedal to light the brake-lights. Therefore, it is respectfully submitted that Applicants' amended independent claim 1 distinguishes over the cited reference. Applicants' dependent claims 8 and 9 have been amended to properly depend from Applicants' amended independent claim 6 and are believed allowable therewith. Claim 7 has been cancelled.

With respect to claims 4, 9-12, 18, and 20, Examiner states that it would be obvious to illuminate the reverse lights (51 and 55) when the vehicle is not in reverse and is moving backwards since Nan-Mu teaches illumination of the lamps (51 and 55) when the vehicle is backing up (see: column 4, lines 54-66), and does not distinguish if this occurs when the vehicle is in reverse or going backwards without being in REVERSE such as when rolling backwards down a hill in neutral. It is respectfully submitted that the Examiner is giving Nan-Mu credit for much more than he invented. There is no suggestion in Nan-Mu that the vehicle is not operating in reverse. Nan-Mu refers to a reversing switch in column 1, lines 37-40 wherein he

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states that the car operating conditions are indicated with lights controlled by the switches for the accelerator pedal, the brake pedal, and the transmission reversing switch. Second, Examiner's attention is drawn to Figure 2 of Nan-Mu wherein if the answer to the question "Car moving forward" is "No" Figure 2 indicates that the car is moving backwards in reverse gear. Therefore, it is respectfully submitted that since Applicants' brake light is illuminated when the vehicle is not in "reverse gear" claims 4, 9, 10, 18, and 20 are allowable over the cited reference. This aspect of the Nan-Mu reference does not appear to apply at all to claims 11 and 12. However, since dependent claim 11 and amended dependent claim 12 are believed to properly depend from Applicants' independent claim 10, they are believed allowable therewith.

With respect to claim 5, Examiner takes official notice that in the vehicle art, the use of transmission control modules, brakes, brake systems, speed sensors, body control modules, and engine control modules are well known, and therefore it would have been obvious to one of ordinary skill in the art to incorporate the above stated devices into the system of Nan-Mu in a manner that would have allowed selective generating of brake and reverse light control signals. Notwithstanding, dependent claim 5 is believed to properly indirectly depend from Applicants' amended independent claim 1 and is believed allowable therewith.

In paragraph 3 of the Office Action, Examiner rejects claim 3, 13-14, and 17 under 35 U.S.C. § 103(a) as being unpatentable over Nan-Mu in view of Sendowski (6,225,896). Examiner states that while Nan-Mu does not teach illumination of the brake light when the vehicle's deceleration reaches a predetermined threshold, use of means for sensing a deceleration threshold and illuminating the lights is well known in the art. Column 2 of Sendowski states that an electric line is connected to the brake light line to provide electric power when a lead vehicle uses the brakes. When the lead vehicle is subjected to a high deceleration as a result, a deceleration sensor shorts the brake light's power to the reverse light's line. As was the case with Nan-Mu, the brake lights are illuminated when the brake is applied. Amended dependent claim 3 depends from amended independent claim 1 which recites that the "brake is not activated." Amended dependent claim 8 depends from amended independent claim 6 which recites that the "brake is not activated." Amended independent claim 14 recites that the "brake is not activated," and dependent claim 17 depends indirectly from amended

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independent claim 15 which recites that the brake light is "illuminated irrespective of whether the brake is activated." Therefore, these claims are allowable over Nan-Mu taken further in view of Sendowski because Sendowski does not provide or supply the deficiencies pointed out above with respect to the Nan-Mu reference; that is, Sendowski, like Nan-Mu requires that the brake be activated. Dependent claim 13 is believed to properly depend from Applicants' independent claim 10 which is believed allowable for reasons described above. Dependent claim 13 is likewise believed allowable by virtue of its dependency from claim 10.

Applicants respectfully submit that Examiner has not established a prima facie case of obviousness. Examiner has the burden of proving factual support for any prima facie conclusion of obviousness. To reach a proper determination of obviousness, Examiner is required to step back in time and determine that the claimed invention, as a whole, would have been obvious to a person of ordinary skill in the art just before the invention was made. Examiner cannot rely on Applicants' disclosure to reach this determination. Impermissible hindsight must be avoided, and the conclusion of obviousness reached on the basis of facts and the prior art.

Examiner is well aware of the three basic criteria necessary to establish a prima facie case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success, and third, the prior art reference or references must teach or suggest all the claim limitations. The teaching or suggestion to make the combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicants' disclosure. In *Re Vaeck*, 947 Fed. 2d 488, 20 USPQ 2d, 1438 (Fed. Cir. 1991).

Each of the independent claims now present in the application recite limitations that Applicants respectfully submit are not taught, disclosed or suggested by the references taken singly or in combination. Accordingly, a prima facie case of obviousness has not been established as a combination of references fails to teach or suggest all the recited claim limitations. Therefore, for at least the foregoing reasons, claims 1-6 and 8-20 are patentable

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over Nan-Mu taken singly or in combination with Sendowski, and Examiner is respectfully requested to withdraw his rejection of these claims under 35 U.S.C. § 103.

The references cited but not applied have been reviewed and are not believed to form the basis of a valid rejection of the claims.

## SECTION II - CONCLUSION


Applicants respectfully submit that the above identified application as amended is now in condition for allowance and earnestly request such allowance. Should the Examiner have any questions or wish to discuss the foregoing response and amendment, Applicants request that Examiner contact the undersigned at (480) 385-5060.

If for some reason Applicants have not requested a sufficient extension and/or have not paid a sufficient fee for this Response and/or for the extension necessary to prevent abandonment on this application, please consider this as a request for an extension of time for the required time period and/or authorization to charge Deposit Account No. 50-2091 for any fee which may be due.

Respectfully submitted,

Dated: September 8, 2005

By:

  
Vincent B. Ingrassia  
Reg. No. 25,732